IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 7TH MARCH 2007 / 16TH PHALGUNA 1928

WP(C).No. 4407 of 2007(Y)

PETITIONER:

THE KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD., KOTTAYAM, REPRESENTED BY THE GENERAL MANAGER.

BY ADV. SRI.GEORGE POONTHOTTAM

RESPONDENTS:

1. ELAMGULAM SERVICE CO-OPERATIVE BANK LTD. KOORALI-PO, REPRESENTED BY THE SECRETARY.
2. P.S.MOHANAN NAIR, S/O.SANKARAN NAIR, CHILANKA HOUSE, PONKUNNAM, KOTTAYAM.
3. A.N.RAMAKRISHNAN NAIR, SREESYLAM, PONKUNNAM, KOTTAYAM.
4. K.J.VIJAYAMMA, SREESYLAM, PONKUNNAM, KOTTAYAM.
5. VIJAYAMOHAN, SREESYLAM, PONKUNNAM, KOTTAYAM.
6. SURESHKUMAR, SREESYLAM, PONKUNNAM, KOTTAYAM.
7. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G), KOTTAYAM.
8. THE KERALA CO-OPERATIVE TRIBUNAL, THIRUVANANTHAPURAM.

BY ADV. SRI.P.G.PARAMESWARA PANICKER (SR.)
SRI.P.GOPAL
SRI.BECHU KURIAN THOMAS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P(C).No. 4407/2007

APPENDIX

PETITIONER'S EXHIBITS:

P1. COPY OF THE ARC.NO.12/99 FILED BEFORE JOINT REGISTRAR, KOTTAYAM.

P2. COPY OF THE APPEAL A.P.NO.32/2001 BEFORE R8.

P3. COPY OF THE JUDGMENT IN A.P.NO.32/2001.

P4. COPY OF THE -DO- W.A.NO.1260/2003.

P5. COPY OF THE AFFIDAVIT BEFORE THE TRIBUNAL IN A.P.NO.32/2001.

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P.A. to Judge.

S.SIRI JAGAN, J.

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W.P.(C).No.4407 of 2007

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Dated this the 7th day of March, 2007

J U D G M E N T

The petitioner is a co-operative bank who has advanced certain amounts to the 1st respondent bank. That bank is under the control of an administrator appointed by the Government. The 2nd respondent filed an arbitration case under Section 69 of the Kerala Co-operative Societies Act, which was dismissed by the Arbitrator against which he filed an appeal before the Kerala Co-operative Tribunal. By Ext.P3 judgment, the Tribunal allowed the appeal against which a writ petition was filed by the 1st respondent bank which was dismissed by a learned Single Judge. The bank took the same in appeal before the Division Bench in W.A.No.1260/2003. The petitioner herein got itself impleaded in that proceedings and contested the case. The learned Division Bench found substance in the contentions of the 1st respondent and the petitioner, and remanded the matter for fresh disposal with notice to the parties. Since no notice was issued to the

petitioner as directed by the Division Bench, the petitioner filed an impleading petition before the Tribunal as I.A.No.22/2007 in A.P.No.32/2001. The grievance of the petitioner is that without passing any orders in the I.A. and without notice to the petitioner, the Tribunal heard the appeal and took the matter for passing orders. According to the petitioner, in so far as the Division Bench has found it necessary to implead the petitioner also in the proceedings and directed issue of notice to the parties by the Tribunal before disposal of the appeal, which would include all the parties in the writ appeal, necessarily the petitioner should also have been given notice in the appeal. I need not go into that question for the present, since the petitioner has actually filed an impleading petition before the Tribunal itself.

2. The learned counsel for the 2nd respondent would object to the prayer of the petitioner since, according to him, the petitioner not being a party either to the proceedings before the Arbitrator or before the Tribunal, or in the writ petition, the

petitioner is not entitled to be impleaded as party to the writ petition.

3. On a consideration of the rival contentions, I dispose of this writ petition directing the 8th respondent Co-operative Tribunal, Thiruvananthapuram, to consider and pass orders on I.A.No.22/2007 in A.P.No.32/2001. While disposing of I.A.No.22/2007 the Tribunal shall take into account the fact that the petitioner was in fact impleaded as a party to the proceedings in the writ appeal and pass orders on the I.A., on merits. Since there was a stay of further proceedings before the Tribunal in the appeal before it in this writ petition, I direct that the Tribunal shall pass final orders in the A.P. only after disposal of the I.A. and if the Tribunal finds it fit to implead the petitioner also in the appeal, the petitioner shall also be heard before passing orders in the appeal.

sdk+ S.SIRI JAGAN, JUDGE